

REMARKS

Reconsideration and allowance of the above-identified application is requested in view of the following remarks.

In the Office Action, Claims 1-5 and 9-11 have been provisionally rejected on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-44 of Application No. 10/447,587, over claims 77-78 of Application No. 10/871,216 and over claims 77-78 and 82 of Application No. 11/252,824.

According to MPEP 804 “If ‘provisional’ obviousness-type double patenting rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer.”

The present application is earlier than Application Nos. 10/871,216 and 11/252,824 listed above in the double patenting rejection. In addition, double patenting rejections are the only rejections remaining in all of the applications. Therefore, Applicants request that the provisional obviousness-type double patenting rejections based on Application Nos. 10/871,216 and 11/252,824 be withdrawn.

In order to expedite allowance of the present application, Applicants file herewith a terminal disclaimer to overcome the rejection based on Application No. 10/447,587.

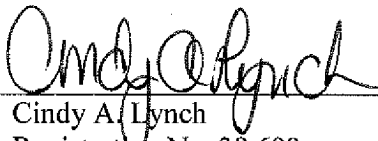
Applicants note the Examiner’s assertion that the mentioned claims of the four applications discussed above are “not patentably distinct from each other.” Although Applicants do not agree with this assertion, we will not discuss this further at this time since two of the rejections should be withdrawn on formal grounds and the third is overcome by filing a terminal disclaimer.

CONCLUSION

Favorable consideration of the subject application is respectfully requested. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below. The Commissioner is authorized to charge any fees that may be required by this paper, and to credit any overpayment, to Deposit Account No. 50-3100.

Respectfully submitted,

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